



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking to establish the
California Institute for Climate Solutions.

Rulemaking 07-09-008
(Filed September 20, 2007)

**WORKSHOP COMMENTS OF THE
DIVISION OF RATEPAYER ADVOCATES**

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Order Instituting Rulemaking to establish the
California Institute for Climate Solutions.

Rulemaking 07-09-008
(Filed September 20, 2007)

**WORKSHOP COMMENTS OF THE
DIVISION OF RATEPAYER ADVOCATES**

In accordance with the Administrative Law Judge’s Ruling Inviting Workshop Comments issued on December 28, 2007, the Division of Ratepayer Advocates (“DRA”) hereby submits its post-workshop comments in the above-captioned proceeding.

I. INTRODUCTION

DRA appreciates the opportunity to supplement the comments it provided at the public workshop held on December 12, 2007. Consistent with those comments, DRA offers in these written comments specific ordering paragraphs to include within a Commission order should the Commission authorize ratepayer funding to establish the California Institute for Climate Solutions (“CICS” or “Institute”) as proposed by the University of California (“UC”). If ratepayer monies are used to fund the CICS, the language DRA proposes is necessary to set appropriate governance and accountability guidelines.

In UC’s proposal to establish the CICS, UC described a “Sustainable Energy Roadmap” to direct the CICS’s activities and help avoid duplication of existing efforts. An inventory of current greenhouse gas (“GHG”) reduction programs is a necessary foundation for the Roadmap. DRA urges the Commission to direct the Commission’s Energy Division to conduct such an inventory with the assistance of the Commission-regulated utilities.

DRA continues to believe that ratepayer funding of the CICS represents an *alternative*, second-choice scenario, because funding for a statewide program such as the CICS should come from all California taxpayers. UC and other parties' support for ratepayer funding of the CICS appears to stem not from an objection to tax-based funding, but rather from a desire for swifter action than presumably would occur under a petition to the State Legislature. Indeed, this view was underscored by President Peevey in his comments at the December 12 workshop:

Some of you have asked, "Why should utility ratepayers alone pay for the Institute?" The short answer is that they shouldn't alone; that ratepayer financing should serve as seed money to leverage other public and private sources of funding. Broad-based-taxpayer financing would certainly be preferable, but we cannot wait for the Legislature to allocate funds any more than the U.S. can defer action on climate change until China and India take action.¹

A legislative solution is a better approach. DRA therefore urges UC and the Commission to take steps to secure taxpayer monies for the CICS. A decision in this matter should outline steps for the UC and the Commission to submit a report to the State Legislature providing an inventory of existing GHG reduction programs and describing the need for the Institute. The report should also include proposed bill language and request sponsorship for a bill to enable taxpayer funding of the CICS. In doing so, the Commission would affirm its commitment to obtain fair and appropriate funding for the CICS, and the CICS could potentially secure funding beyond the ten-year time period currently proposed.

II. PROPOSED ORDERING PARAGRAPHS

In the event the Commission determines to authorize ratepayer funding for the Institute, DRA proposes that the Commission adopt the following ordering paragraphs in any decision addressing the formation of the CICS:

¹ Reporter's Transcript, R.07-09-008 Workshop, Dec. 12, 2007, page 4, lines 2-10.

A. GOVERNANCE

Responsibilities: The Governing Board has the responsibility and authority to oversee and administer the CICS. The Governing Board shall comply with the directives set forth in CPUC decisions pertaining to the CICS. The Governing Board shall authorize the expenditure of funds received from ratepayers of electrical and natural gas corporations only for purposes of education, research, development and delivery of energy solutions to mitigate and adapt to climate change. The Governing Board shall authorize expenditure of funds in accordance with the budget cycle established in this Decision.

Board Composition: The Governing Board shall have ten regular voting members, consisting of (a) the President of the CPUC; (b) the President of the UC; (c) the Director of the CPUC's Division of Ratepayer Advocates; (d) four members appointed by the CPUC; and (e) three members appointed by UC, including at least one representative from each of the following: a private university located within the State of California, the California State University system; and the California Community College system.

Removal; Vacancies: The CPUC and UC may at any time by written notice remove any Board member it has appointed. If a vacancy occurs on the Governing Board for any reason, the vacancy will be filled by appointment of a new Governing Board member by either the CPUC or UC depending on which entity is authorized to appoint the Governing Board member creating the vacancy.

Notice; Quorum: Regular meetings of the Governing Board shall be held in accordance with a schedule of meetings to be adopted by resolution of the Governing Board. Special meetings of the Governing Board may be called with at least ten days' prior written notice. The presence in person of at least six members of the Governing Board shall constitute a quorum for the transaction of business at any meeting of the Governing Board.

Governance Structure: No later than 180 days from the effective date of this Decision, the Governing Board shall submit to the CPUC for review and approval governance rules, including requirements for attendance at meetings, consents and formation of

committees. Such governance rules shall not conflict with the requirements of this Decision.

B. ACCOUNTABILITY

Determination of Need for Coordinating Institute: In order to more effectively allocate funds to address research into mitigation and adaptation to climate change, the Energy Division is directed to prepare an inventory of all ratepayer-funded and academic programs addressing the reduction of greenhouse gases. Respondent Utilities shall provide the Energy Division with reasonable assistance in preparing this inventory. The Energy Division shall serve this inventory on the service list to this proceeding no later than 60 days from the effective date of this Decision.

Budget Cycles: UC shall submit to the Commission a detailed budget with adequate supporting documentation for CICS operations in 2009 and 2010. The budget must contain sufficient detail to allow the Commission to thoroughly review and assess the CICS's proposed activities for the upcoming budget cycle.

UC shall serve this budget on the service list to this proceeding no later than 90 days from the effective date of this Decision. Subsequent budgets will be submitted on a biannual basis. The CPUC shall provide further direction on the timeframe for additional budget cycles in a subsequent ruling in this or a successor proceeding.

Ratemaking: Charges to fund the CICS shall be imposed on ratepayers of electric and natural gas corporations ("the CICS charge"). The CICS charge shall reflect an equal cents per kilowatt-hour allocation for electric usage and an equal cents per therm allocation for natural gas usage. Residential electrical usage up to 130% of baseline shall be exempt from the CICS charge. The CICS charge shall be nonbypassable and shall apply to all direct access and departing load, municipal departing load and community choice aggregation load.

The Energy Division shall convene a workshop or workshops no later than 120 days from the effective date of this Decision to address utility billing, collection and remittance issues in connection with CICS charges. Electric and natural gas corporations

shall file Advice Letters to implement billing, collection and remittance of a CICS charge no later than 180 days from the effective date of this Decision.

Segregation of Funds: UC shall segregate all Funds for the benefit of the CICS. UC shall manage all Funds in a manner consistent with conservative, low-risk investment strategies, and consistent with the direction of the CICS Governing Board. The CICS shall use monies received only for activities that are approved by the Governing Board and relevant to CICS activities.

Reports and Audit: UC shall maintain detailed records under generally accepted accounting principles for the purposes of the CICS. UC shall retain records for at least six years. The Commission and its employees shall have the right to access the records of the CICS on ten days' notice.

UC shall provide an annual report no later than January 31, commencing in 2009. The report shall disclose CICS revenues and expenditures as well as describe projects funded by the CICS, the status of those projects and projected activities for the next year.

The Energy Division is directed to complete a financial and programmatic audit of the CICS no later than December 31, 2009. The Energy Division is authorized to work in cooperation with the Bureau of State Audits to accomplish this audit. The CPUC shall consider further refinements to authorizing ratepayer contributions based on the UC's records generally available to the Commission and the results of the Energy Division's financial and programmatic audit.

Return on Investment: The CICS shall provide public access to resources it develops, including but not limited to any reports and educational materials. Any intellectual property developed by the CICS or pursuant to a grant funded by the CICS shall be subject to march-in rights that permit the CPUC, if warranted in its sole discretion, to exercise and assign a nonexclusive, royalty-free license in any field of use to responsible applicant(s) under terms that are reasonable under the circumstances.

In consideration of ratepayers' providing funding to the CICS, UC shall remit a portion of revenues or royalties derived from any profitable technology or intellectual

property developed through ratepayer-funded activities of the CICS as directed by the CPUC. The revenue or royalty sharing mechanism shall be modeled after the applicable provisions contained in the standard agreements used by the California Energy Commission's Public Interest Energy Research ("PIER") Program.² Any revenues or royalties paid shall be passed through to ratepayers through rate reductions or other appropriate mechanisms to be administered by the utilities as directed by the CPUC.

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² See Standard PIER Terms & Conditions and University of California PIER Terms and Conditions, available online at <http://www.energy.ca.gov/contracts/pier.html#piergeneralinfo>. For more information on model agreements, see U.S. Department of Energy website at http://www.eere.energy.gov/state_energy_program/state_agreements.cfm.

III. CONCLUSION

If the Commission authorizes ratepayer funding for the CICS, DRA recommends that the Commission incorporate the above governance and accountability directives into any order establishing the CICS.

Respectfully submitted,

/s/ MARION PELEO

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January 7, 2008

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document
“**WORKSHOP COMMENTS OF THE DIVISION OF RATEPAYER
ADVOCATES**” in **R.07-09-008**.

A copy has been e-mailed to all known parties of record who have provided
electronic mail addresses. In addition, all known parties of record who did not provide
electronic mail addresses have been served by first-class mail.

Executed in San Francisco, California, on the **7th** day of **January, 2008**.

/s/ Joanne Lark

Joanne Lark

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R.07-09-008

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